EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

FEB 26 2018

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

CLA 34-18-1572
Speaker Benjamin J.F. Cruz

FEB 2 6 2018
Time: 2:38 [X] AM [ ] PM File No. 34-1580
Received By:

Dear Mr. Speaker:

Pursuant to § 102 (e) of Chapter 1, Title 1, Guam Code Annotated, transmitted herewith is a copy of Executive Order No. 2018-02.

Senseramente,

EDDIE BAZA CALVO

2018 FEB 27 AM 8:30

1572

OFFICE OF THE GOVERNOR
HAGÅTÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 2018-02

RELATIVE TO DECLARING A MORATORIUM ON THE RENEWAL OF QUALIFYING CERTIFICATES

WHEREAS, on December 22, 2017, President Donald Trump signed a new national tax reform plan, the *Tax Cuts and Jobs Act* [H.R.1 - AN ACT TO PROVIDE FOR RECONCILIATION PURSUANT TO TITLES II AND V OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2018], into law as U.S. P.L. No. 115-97; and

WHEREAS, P.L. No. 115-97 amends the Internal Revenue Code to lower income tax rates and to provide for the modification of certain existing tax credits, deductions, and policies; and

WHEREAS, the 34th Guam Legislature, the Department of Revenue and Taxation, and the Guam Tax Commission are working together to determine how the tax cuts imposed by P.L. No. 115-97 will impact government of Guam revenues for the rest of the FY2019 and beyond; and

WHEREAS, it is estimated that under the new national tax reform plan, the Government of Guam may not be able to collect $80 million to over $100 million in revenue, thus significantly affecting government operations and the ability to provide critically necessary services related to health, safety, and welfare; and

WHEREAS, Title 12 Guam Code Annotated establishes a Qualifying Certificate (QC) program administered by the Guam Economic Development Agency (GEDA). The QC program is an economic incentive tool intended to

entice investors into Guam through the granting of tax abatements and tax rebates, including income tax rebates that range from 75% to 100%; and

WHEREAS, in August 2013, the Office of Public Accountability released OPA Report No. 13-02 which detailed a performance audit of the QC program. The Public Auditor found that there were twenty-three QC beneficiaries in existence, out of which tax benefits to just six beneficiaries totaled at least $21.7 million from 2008 to 2011, including $15.4 million in income tax rebates, $6 million in Gross Receipt Tax (GRT) abatements, and $358,000 in real property tax abatements. The Public Auditor further found that the overall fiscal impact of the QC program could not be determined; and

WHEREAS, in December 2017, the Office of Public Accountability released OPA Report No. 17-08 which detailed a performance audit of general GRT exemptions. The Public Auditor found that approximately $210.7 million (or $70.2 million a year) in potential revenues were reduced and not collected from Fiscal Years 2014 to 2016 due to the allowance of GRT exemptions; and

WHEREAS, until the full impact of the national tax reform plan imposed by U.S. P.L. No. 115-97 can be fully understood and determined, and unless the Guam Legislature takes action on a meaningful solution, the Government of Guam must take aggressive and affirmative action to safeguard the future welfare of the people and the Territory by anticipating a significant decrease in tax revenues and by implementing proactive measures to offset that decrease; and

WHEREAS, Section § 1421i(c) of the Organic Act of Guam (Title 48, United States Code) provides that "the administration and enforcement of the Guam Territorial Income Tax shall be performed by or under the supervision of the Governor"; and

WHEREAS, Section § 1422 of the Organic Act of Guam (Title 48, United States Code) provides that the executive power of Guam is vested in the Governor of Guam "who shall have general supervision and control of all the

departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam."

NOW, THEREFORE, I, EDDIE BAZA CALVO, Governor of Guam, by the authority vested in me by the Organic Act and laws of Guam, do hereby order and direct as follows:

(1) **Moratorium Suspending the Renewal or Extension of Qualifying Certificates; GEDA to Enforce.** For 90 days following the effective date of this Executive Order, a moratorium is ordered and placed on the renewal or extension of all Qualifying Certificates that were issued pursuant to Title 12, Guam Code Annotated, Chapter 58.

(2) **GEDA to Enforce Executive Order**. The Guam Economic Development Authority shall not issue, approve, or grant any renewals or extensions of any Qualifying Certificates during the moratorium period.

(3) **New Applications not Affected**. Nothing in this Executive Order shall be construed to affect the consideration of new first - time applications for a Qualifying Certificate that are duly submitted pursuant to applicable Guam law and regulations.

(4) This Executive Order is effective immediately.

SIGNED AND PROMULGATED at Hagåtña, Guam, this 26th day of February, 2018.

EDDIE BAZA CALVO
I Maga'Låhen Guåhan
Governor of Guam